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## REVIEWS.

THE LAW OF EMINENT DOMAIN IN THE UNITED STATES. By Carman F. Randolph. Boston: Little, Brown, & Co. 1894. pp. cxxv, 462.

The name "Eminent Domain" comes from Grotius, and the subject is a prominent one with European writers on public law; but treatises about it do not exist outside of the United States. The topic develops here because it is a branch of our system of Constitutional Law. The first treatise was by H. E. Mills, of St. Louis, in 1879; of this a second edition appeared in 1888. In the last named year there came another much larger book, by John Lewis, of Chicago. The subject had been systematically dealt with in two elaborate articles, published in 1856, in Volume XIX. of the Boston Law Reporter; and of course it is often nowadays incidentally expounded in works on other subjects, — *e. g.* in Pierce's American Railroad Law and Angell and Ames on Corporations.

Mr. Randolph's book brings the subject well up to the present date. It is a compact, accurate, and scholarly piece of work. The author is no party to that widespread silent conspiracy between writers and publishers which palms off upon an abused profession so much worthless matter. There is no padding here; the writer has thought over his matter, and his thinking is his own. He has furnished his reader also with an unusually good apparatus of helps in his full indexes, his careful syllabus of the entire volume, and a collection of all the constitutional passages relating to his subject. While the book is smaller than that of Mills, it has a more thorough and scholarly treatment of the subject. In avoiding the wholly unnecessary bulk of Lewis's treatise, it steers clear also of the narrow, *doctrinaire* tone which did much to mar that book, — *e. g.* in its treatment of the topics of "Public Use" and "Taking." It may well be thought that Mr. Randolph carries too far the effort to widen the reach of the constitutional provisions, and excepts too readily the smoothly transmitted dicta of judges who in many cases have not sufficiently considered the nature and origin of the great topic they have in hand. But in this he has the example of his two predecessors. Both he and they may perhaps say that they are not making law, but only recording the law ascertained by the courts; yet one has only to recall the subtle skill of Blackburn in his treatise on Sale to perceive how much an author may do by a wise selection, analysis, and interpretation of the cases, and a close restriction of them to the exact point decided, towards placing the law upon a better footing. "Legislation," says our author of a certain topic, "both constitutional and statutory, has cleared or confused the situation according to the amount of legal sense behind it." He would probably think it unbecoming to say of judicial decisions what he says here of legislation; and yet as to many topics that thing ought to be plainly said. Many of the decisions on the subject of Eminent Domain are ill instructed and petty. To say that they declare the law for their own jurisdiction is to say much, when one is inquiring what the momentary law in that jurisdiction is; but it is to say comparatively little when the question is of that larger sort that concerns the jurist, and the lawyer who seeks to set his own feet on the rock of right principles and sound reason and to help place his subject there.

Mr. Randolph has fourteen chapters, treating successively of, I. The

Eminent Domain; II. Jurisdiction; III. The Public Use; IV. Property; V. The Authority to condemn; VI. Acquisition other than by Condemnation; VII. Interferences with Property in Furtherance of Public Purposes; VIII. Location and its Incidents; IX. The Estate or Interest condemned; X. Compensation and Damages; XI. Procedure; XII. Remedies; XIII. The Improvement and Use of Streets; XIV. Waters. Of these chapters the tenth is considerably the longest; the weighty topics of Chapters II. and IV. occupy together much less than the space given to Chapter X. While one is disposed to question sometimes the scientific neatness and proportion of the treatment, he must admit the simplicity and practical convenience of it.

As a convenient, compact, sober, and accurate book of reference for the practitioner, Mr. Randolph's book may be heartily commended.

J. B. T.

#### COMMENTARIES ON THE LAW OF PERSONS AND PERSONAL PROPERTY.

Being an Introduction to the Study of Contracts. By Theodore W. Dwight, late Professor of Law at Columbia College, New York. Edited by Edward F. Dwight, of the New York Bar. Boston: Little, Brown, & Co. 1894. 8vo. pp. lxii, 748.

One of Professor Dwight's students has said of him, that "he made everything so plain as he went, and he went so quickly, that the student might delude himself with the belief that our whole jurisprudence was innate in himself, and only awaited the awakening touch of the great teacher. He aroused and he riveted the attention of all to a degree that was very great, and wholly exceptional in a school-room. Strangest of all, his own interest in the work appeared to be as fresh and exuberant as that of any of his listeners." (7 HARV. LAW REV. 209.) After finding, as one does, that all Professor Dwight's students agree in praising him and his success with his methods of teaching, one naturally turns with a lively interest to his publication of his lectures (he left them ready for the printer) to see what hope it shows for their success in print.

In one thing, first of all, one finds the praise borne out. He does make everything thoroughly plain, and he gallops along through his subject without making it less plain by his speed; and thus he accomplishes a great deal. He treats of the sources of the law, the rights of persons as effected by infancy, marriage, and the like, and of all the vicissitudes of title and ownership, and on every page he makes one feel how he must have helped his students with the richness of his knowledge and experience. If he treats of the early love of the Colonies for old constitutional principles, such as Magna Charta, he clothes the dry bones with the bit from Evelyn's diary, where that gentleman was told that the Colonies "might be curbed by a few of his Majesty's first-rate frigates, and with a bit of the curious history of the document itself." And this comes in in the notes of the book—just as it probably came in by the way in the lectures—in such a manner that it enlivens the whole subject without destroying the rapid continuity of the full and substantial treatment of the rights of personal liberty. On the whole, Professor Dwight's book, while it may well fail in the opinion of those who knew him to come up to the lectures on which it is based, contains a great mass of information, never pedantic and never even uninteresting, and shows to those who have never known him many of the qualities which led to his phenomenal success as a teacher.

R. W. H.